

RESPONSE TO OFFICE ACTION

Serial No. 10/632,873

Page 6 of 9

REMARKS

This response is intended as a complete response to the Office Action dated December 20, 2005. In view of the following discussion, the Applicants believe that all claims are in allowable form.

CLAIM REJECTIONS**§112 Claims 1-13**

Claims 1-13 stand rejected as being indefinite due to the limitation "an etching gas mixture comprising a fluorine-rich fluorocarbon or hydrofluorocarbon gas, a nitrogen-containing gas, and a hydrogen-rich hydrofluorocarbon gas."

During a teleconference on March 7, 2006 between Examiners George and Nadine Norton and Alan Taboada, agreement was reached as to the proper interpretation of claim 1. Specifically, all parties agreed that, properly construed, the above-recited limitation refers to three constituents: (1) a fluorine-rich fluorocarbon or hydrofluorocarbon gas; (2) a nitrogen-containing gas; and (3) a hydrogen-rich hydrofluorocarbon gas.

Thus, the Applicants submit that claims 1-13 comply with 35 USC §112 and are patentable thereunder. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

§102 Claims 1-6, 9, and 12

Claims 1-6, 9, and 12 stand rejected as being anticipated by United States Patent No. 6,869,542 issued March 22, 2005, to *Desphande, et al.* (hereinafter *Desphande*). The Applicants respectfully disagree.

The Applicants submit that *Desphande* is not prior art with respect to the present Application. Specifically, the Applicants submit that they conceived of and reduced to practice the claimed invention before the March 12, 2003 priority date of *Desphande*. In support of this submission, the Applicants enclose herewith a declaration under 37 C.F.R. §1.131 declaring a date of conception and reduction to practice for the invention claimed in the present Application prior to June 14, 2002. The declaration is signed by

RESPONSE TO OFFICE ACTION
Serial No. 10/632,873
Page 7 of 9

inventors Joey Chiu, Yan Ye, and Xiaoye Zhao. Inventors Yunsang Kim, Neungho Shin, Hee Yeop Chae, and Fang Tian no longer work for the assignee, Applied Materials, Inc., and are unavailable.

Attached as Exhibit A to the declaration is a copy of an invention alert that was submitted to the Applied Materials, Inc., Patent Department on or before June 14, 2002 as part of an invention disclosure that forms the basis of the present application. Exhibit A is offered as supporting evidence that the method of the present invention – as recited, for example, in independent claim 1 – was conceived of and reduced to practice prior to the March 12, 2003 priority date of *Desphande*.

Thus, claims 1-2, 4-6, 9, and 12 are patentable over *Desphande*. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

§102 Claims 1-2, 4-6, 9, and 12

Claims 1-2, 4-6, 9, and 12 stand rejected as being anticipated by United States Patent No. 6,897,154 issued May 24, 2005, to *Leung, et al.* (hereinafter *Leung*). The Applicants respectfully disagree.

The Applicants submit that *Leung* is not prior art with respect to the present Application. As noted above, the Applicants submit that they conceived of and reduced to practice the claimed invention on or before the June 14, 2002 priority date of *Leung* and have submitted a declaration under 37 C.F.R. §1.131 in support of this assertion. As discussed above, the declaration supports that the method of the present invention – as recited, for example, in independent claim 1 – was conceived of and reduced to practice on or before the June 14, 2002 priority date of *Leung*.

Thus, claims 1-2, 4-6, 9, and 12 are patentable over *Leung*. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

RESPONSE TO OFFICE ACTION

Serial No. 10/632,873

Page 8 of 9

§103 Claims 11, 10, 7-8, and 13

Claim 11 stands rejected as being unpatentable over *Desphande* as evidenced by United States Patent No. 5,450,205 issued on September 12, 1995 to *Sawin, et al.* (hereinafter *Sawin*).

Claim 10 stands rejected as being unpatentable over *Desphande* in view of United States Patent No. 6,426,477 issued on July 30, 2002 to *Koshimizu, et al.* (hereinafter *Koshimizu*).

Claims 7-8 stand rejected as being unpatentable over *Desphande* in view of United States Patent No. 6,828,251 issued on December 7, 2004 to *Su, et al.* (hereinafter *Su*) and further in view of United States Patent No. 6,287,978 issued on September 11, 2001 to *Becker, et al.* (hereinafter *Becker*).

Claim 13 stands rejected as being unpatentable over *Desphande*.

The Applicants respectfully disagree. As discussed above, *Desphande* is not prior art with respect to the present application. As such, the above rejections under 35 USC §103 are moot.

Thus, claim 11 is patentable over *Desphande* as evidenced by *Sawin*; claim 10 is patentable over *Desphande* in view of *Koshimizu*; claims 7-8 are patentable over *Desphande* in view of *Su* and further in view of *Becker*; and claim 13 is patentable over *Desphande*. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

CONCLUSION

Thus, the Applicants submit that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issuance are earnestly solicited.

RESPONSE TO OFFICE ACTION**Serial No. 10/632,873****Page 9 of 9**

If, however, the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Mr. Alan Taboada at (732) 935-7100 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

3/31/06
Date

Alan Taboada
Alan Taboada, Esq.
Reg. No. 51,359
(732) 935-7100

Moser IP Law Group
1040 Broad Street, 2nd Floor
Shrewsbury, NJ 07702